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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS QUESTIONS, INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Human rights and mass exoduses

Report of the Secretary-General

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I. INTRODUCTION

1. At its forty-eighth session, the General Assembly adopted resolution 48/139 of 20 December 1993, entitled "Human rights and mass exoduses", in which, inter alia, it recalled its endorsement of the recommendations and conclusion of the Group of Governmental Experts on International Cooperation to Avert New Flows of Refugees (A/41/324, annex), including the call upon all States to promote human rights and fundamental freedoms and to refrain from denying those to individuals in their population because of nationality, ethnicity, race, religion or language. It requested all Governments to ensure the effective implementation of the relevant international instruments, in particular in the field of human rights and humanitarian law, as that would contribute to averting new massive flows of refugees and displaced persons.

2. In the same resolution, the General Assembly took note of the emphasis placed by the Secretary-General in his report to the General Assembly at its forty-seventh session (A/47/595) on the need to develop the capacity of the United Nations for early warning and preventive diplomacy to help deter humanitarian crises. In that regard, it reaffirmed its previous resolutions on the question of human rights and mass exoduses, and requested the Secretary-General, in the further development of the capacity of the Secretariat for early warning and preventive diplomacy, to pay particular attention to international cooperation to avert new flows of refugees.

3. The General Assembly urged the Secretary-General to attach high priority and to allocate the necessary resources from the regular budget of the United Nations to the consolidation and strengthening of the system for undertaking early-warning activities in the humanitarian area by, inter alia, the designation of the Department of Humanitarian Affairs of the Secretariat as the focal point for early warning in that area and strengthened coordination between relevant offices of the Secretariat concerned with early warning and organizations of the United Nations system, for the purpose of ensuring, inter alia, that effective action was taken to identify human rights abuses that contribute to mass outflows of persons.

4. Finally, the General Assembly requested the Secretary-General to report to the Assembly at its fiftieth session on the strengthened role that he was playing in undertaking early-warning activities, especially in the areas of human rights and humanitarian assistance, and invited him to include in his report detailed information on the programmatic, institutional, administrative, financial and managerial efforts instituted to enhance the capacity of the United Nations to avert new flows of refugees and to tackle the root causes of such outflows. In paragraph 20 it specifically requested the Secretary-General to report on developments relating to the recommendations contained in the report of the Group of Governmental Experts on International Cooperation to Avert New Flows of Refugees and the recommendations of the Joint Inspection Unit (JIU) (A/45/649 and Corr.1).

5. It should be recalled that the Group of Governmental Experts was established by the General Assembly in its resolution 36/148 of 16 December 1981. In its final report (A/41/324, annex), the Group made several

recommendations specific to averting new flows of refugees. States were reminded that, in view of their responsibilities under the Charter of the United Nations and consistent with their obligations under existing international instruments in the field of human rights, they should refrain from creating or contributing by their policies to causes and factors that generally lead to massive flows of refugees, should make provisions and take appropriate measures to avert new flows of refugees caused by natural disasters, should cooperate with one another and with relevant organs of the United Nations in order to prevent future massive flows of refugees and, whenever new massive flows of refugees occurred, should respect the existing generally recognized norms and principles of international law governing the rights and obligations of States and refugees directly concerned.

6. The Group of Governmental Experts recommended that the General Assembly, meanwhile, encourage the Secretary-General to give continuing attention to the issue of averting new massive flows of refugees, and to take measures with the following purposes: to ensure that full and timely information relevant to the matter was available to the Secretariat; to improve coordination within the Secretariat for analysing the information, so as to obtain an early assessment on the situations that gave rise to new massive flows of refugees, and to make the necessary information available to the competent United Nations organs in consultation with the States directly concerned; and to help improve the coordination, within the Secretariat, of the efforts of United Nations organs and specialized agencies and of Member States concerned for timely and more effective action. General Assembly resolution 41/70 of 3 December 1986, in which the Assembly endorsed the recommendations and conclusions contained in the report of the Group, should be recalled in this context.

7. Acting on a request of the Office for Research and the Collection of Information of the Secretariat, JIU undertook in 1989-1990 a study on the coordination of activities related to early warning of possible refugee flows, the findings of which were presented to the General Assembly at its forty-fifth session (A/45/649). Most notable among the recommendations were those pertaining to introducing early warning as a regular component of work and to increasing the early warning capacity of the United Nations system in refugee matters by improving its coordination. Towards those ends, it was suggested that the Administrative Committee on Coordination take the following measures:

(a) Include on its agenda an item on early warning of possible refugee flows and review the issue as needed;

(b) Designate a central focal point in the United Nations system for the coordination and monitoring of factors related to possible refugee flows;

(c) Establish a working group on early warning of refugee flows;

(d) Establish an inter-agency consultative mechanism to consider concrete cases of early warning of possible refugee flows and to meet urgently in case of emergencies;

(e) Make arrangements for United Nations resident coordinators to serve as coordination points in the field for early warning of refugee flows.

II. ACTION BY THE SECRETARY-GENERAL

8. In compliance with these recommendations, the Administrative Committee on Coordination has regularly included the issue of early warning of possible refugee flows on its agenda and has undertaken several notable measures in that regard. In April 1991, the Committee established an ad hoc Working Group on Early Warning Regarding New Flows of Refugees and Displaced Persons. Based on the recommendations of this Working Group, in October 1992 the Committee designated the Department of Humanitarian Affairs as the focal point in launching and coordinating the periodic inter-agency consultations on early warning of new mass flows of refugees and displaced persons.

9. Pursuant to the decision of the Administrative Committee on Coordination, the Department of Humanitarian Affairs convened the first consultation on early warning of new mass flows of refugees and displaced persons on 4 February 1993 at Geneva. The following offices and agencies were represented: Department of Political Affairs of the Secretariat; Centre for Human Rights of the Secretariat; United Nations Children's Fund (UNICEF); United Nations Development Programme (UNDP); United Nations Development Fund for Women (UNIFEM) (invited upon special request); United Nations Environment Programme (UNEP); Office of the United Nations High Commissioner for Refugees (UNHCR); Food and Agriculture Organization of the United Nations (FAO); United Nations Educational, Scientific and Cultural Organization (UNESCO); World Health Organization (WHO); and the Department of Humanitarian Affairs. The consultative group, as established by the Administrative Committee on Coordination, also includes the World Food Programme (WFP). The International Committee of the Red Cross (ICRC) and the International Organization for Migration (IOM) attended in an observer capacity. At the meeting it was agreed that the Department of Humanitarian Affairs should serve as the focal point and facilitator of the early warning network. The Department agreed to fulfil those roles and to take the lead in identifying relevant early warning indicators regarding new mass flows. All participating agencies and offices were asked to designate contact persons.

10. The Department of Humanitarian Affairs continued during 1994 to convene and chair the consultations on early warning of new flows of refugees and displaced persons. Seven such sessions were held at Geneva in 1994, the last one on 12 December 1994. The outcome of these consultations was submitted to the executive heads of members of the group to brief them on incipient situations possibly giving rise to new mass flows. Each report contained a succinct description of the pertinent cases as well as recommendations for appropriate preventive or mitigating action to respond to each particular challenge.

11. As in the initial phase of these consultations, various members of the inter-agency process continued to make information and analysis available prior to or at the meetings. The written and oral contributions of FAO, UNHCR, the Department of Political Affairs and the Centre for Human Rights were especially important in shedding light on the root causes of mass flight. The group felt, however, that the information flow for the meetings could and should be much improved.

12. While each consultation gave the highest priority to the review of new cases and selection of urgent early warning situations, the meetings also addressed methodological issues in order to advance the development of the early warning model suitable for the detection of new mass flows. The group paid special attention to the crucial question of indicators and to data-gathering and information management issues.

13. Regarding early warning indicators relating to mass flows, the group agreed that it would select a small number of core indicators that would eventually be adopted for use in the compilation of relevant data and in the deliberation of critical situations in the consultation meetings. In order to allow for a more intensive exchange of views about various approaches to conceptions and lists of indicators, a subgroup was set up, with UNHCR serving as convener and chairperson. The subgroup met several times and recommended a short list of indicators to facilitate the dialogue of the group as a whole.

14. After a review of its work in the first two years, the group unanimously recommended in January 1995 that the early warning consultations as presently defined should be maintained. It is envisaged that additional parties, including non-governmental organizations and Governments, could be invited to attend the consultation meetings as observers, that a wider and more systematic information flow could be made available to the members of the consultation and that the reports could be distributed to a wider audience than previously in order to ensure that entities that were able to do so would take action on the basis of the conclusions of the group.

15. During 1994 and 1995, the work in the Department of Humanitarian Affairs on the humanitarian early warning system has been accelerated. The project is now fully operational and is able to generate data on more than 100 countries. Comprehensive country profiles have been prepared offering a rich database which serves as the principal provider of timely information for the Department's overall early warning mandate and for the consultations on early warning of new flows of refugees and displaced persons.

16. New developments in computerization in the United Nations Secretariat, including the Department of Humanitarian Affairs, in New York and Geneva and the elaboration of an interdepartmental framework for coordination bringing together, as appropriate, the perspectives and activities of the Department of Peace-Keeping Operations, the Department of Political Affairs and the Department of Humanitarian Affairs should also be noted in this connection. An early warning element involving monitoring and evaluation for preventive action is incorporated in the framework for coordination. This consultative mechanism should further strengthen the early warning capacity of the Department of Humanitarian Affairs with regard to emerging crises in general and mass exoduses in particular.

17. The Representative of the Secretary-General on internally displaced persons has also been directly involved in the ongoing work of the Inter-Agency Working Group Task Force on Internally Displaced Persons and has expressed his availability and interest in participating also in the Administrative Committee on Coordination Working Group on Early Warning Regarding New Flows of Refugees and Displaced Persons. He is currently in the process of completing his

compilation of legal norms and human rights provisions for the protection of the internally displaced. This important work constitutes a significant step in the continuing endeavour to prevent mass displacement within State borders and protect the affected individuals.

III. ACTION BY THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

18. The United Nations High Commissioner for Human Rights has placed particular emphasis on early warning and other activities aimed at preventing human rights violations throughout the world, including timely and intensive dialogue with individual Governments. Early notice of situations in which the United Nations human rights programme could play a role in preventing the outbreak of serious violations of human rights requires close cooperation between the High Commissioner and the special procedures, treaty bodies, relevant agencies and programmes and non-governmental organizations. Such cooperation can be a most useful tool both in providing early warning of potential emergencies and in mitigating or avoiding such disasters. In this connection, the High Commissioner has invited human rights treaty bodies, the special rapporteurs and representatives, experts and working groups established by the Commission on Human Rights, as well as the United Nations agencies and programmes and non-governmental organizations, to pay attention to situations which might need preventive action. The capacity of the Centre for Human Rights to analyse and review information of this kind has already been enhanced, but requires further strengthening.

19. An example of preventive action taken by the High Commissioner is the establishment of the United Nations human rights office in Burundi on 15 June 1994, with the agreement of the Government of Burundi. In an emergency message of 17 February 1995 to the Commission on Human Rights at its fifty-first session, the High Commissioner called for all necessary measures to be taken to prevent the situation in the country from deteriorating. In response, the Commission, in its resolution 1995/90 of 8 March 1995, emphasized the need to increase the preventive activities of the international community in Burundi, notably through the presence of human rights observers, and called upon the Chairman of the Commission to appoint a special rapporteur on the situation of human rights in Burundi. The Security Council, in its statement of 9 March 1995 (S/PRST/1995/10), encouraged the High Commissioner to strengthen his field office, and requested all parties in Burundi to cooperate with the international observers by guaranteeing them access to the entire country.

20. By attempting to ensure that basic human rights are not violated at any stage of return, resettlement and reintegration of the Rwandan refugees and internally displaced persons through the Human Rights Field Operation in Rwanda, the High Commissioner, in close cooperation with UNHCR, tries both to alleviate the consequences of the massive exodus that occurred in Rwanda in 1994 and to mitigate further displacement caused by human rights violations.

21. Preventive and responsive human rights field operations have undergone considerable enlargement during the past 12 months, giving the United Nations

human rights programme a new dimension. Such operations were developed in Cambodia and Malawi, and continued in the territories of the former Yugoslavia.

22. Preventive and responsive measures require adaptation of the United Nations human rights infrastructure and adequate resources, so that prompt and comprehensive steps can be taken. Preventive action will not only save lives and enormous human suffering, but may well prove to be less expensive and more cost-efficient than curative action.

23. Close cooperation between the High Commissioner and Governments, United Nations agencies and programmes, international organizations and non-governmental organizations can be a useful tool in providing early warning of potential emergencies and in mitigating or avoiding such disasters. It is particularly required in the following areas of operational activity: (a) logistical assistance capacity on a stand-by basis to provide support for emergency or preventive field missions; (b) the establishment and maintenance of an international roster of specialized staff to be available at short notice for human rights field missions; and (c) increased contributions to the voluntary funds in order to cover the costs of field missions and advisory services assistance. The reaction to the request by the High Commissioner for assistance in the above-mentioned areas has been very encouraging.

24. The Centre for Human Rights is also undertaking various early warning activities including projects relating to country-specific data collection, inter alia for early warning purposes. The Centre has participated in the meetings of the Administrative Committee on Coordination working group on early warning of new flows of refugees and displaced persons by submitting relevant information on countries threatened with new exoduses. The Centre has contributed to the development both of a set of close to 45 indicators of new flows of refugees and displaced persons by the Subgroup on Indicators (chaired by UNHCR) and of the close to 280 human rights indicators employed by the Humanitarian Early Warning System. The Centre also contributes to the framework for coordination project organized by the Department of Humanitarian Affairs, the Department of Political Affairs and the Department of Peace-keeping Operations, to which it has submitted country-specific information for use in simulation exercises. The Centre attended the Meeting on Early Warning Work Covering the Commonwealth of Independent States Region, organized by UNHCR and the Russian Academy of Sciences and held in Moscow in May 1995.

IV. ACTIVITIES OF HUMAN RIGHTS MECHANISMS

25. Human rights implementation mechanisms have undertaken numerous preventive measures in the context of their respective mandates. A notable example of such activities which has the prevention of human rights as its main objective is the issuance of urgent appeals to Governments based on information from a variety of intergovernmental and non-governmental sources. This procedure is employed routinely by the Special Rapporteurs on torture and extrajudicial, summary and arbitrary executions and the Working Group on arbitrary detention and, on occasion, by other thematic and country rapporteurs. In order to enhance this process, the United Nations High Commissioner for Human Rights has established a "human rights hot line" to facilitate the timely flow of relevant information

upon which the special rapporteurs and the Working Group may act. A meeting, held from 30 May to 1 June 1994, of the special rapporteurs, representatives, experts and chairpersons of working groups emphasized the importance of speedy reaction to emergency situations and the need for follow-up action. A second such meeting, held in May 1995, further recommended enhancing the flow of information among the participants of the meeting as well as between them and the High Commissioner, the treaty bodies and field offices. In this connection, the effort to develop an electronic database to channel information to the appropriate thematic and country mechanisms was welcomed.

26. The chairpersons of the six human rights treaty bodies, at their fourth meeting, held in October 1992, recognized that the treaty bodies had an important role in seeking to prevent as well as to respond to human rights violations and, towards those ends, recommended that each treaty body undertake an urgent examination of all possible measures that it might take, within its competence, both to prevent human rights violations from occurring and to monitor more closely emergency situations arising within the jurisdiction of States parties (A/47/628, para. 44). The report of the Secretary-General, entitled "Improving the operation of the human rights treaty bodies", detailed the measures taken in this regard by the Committee on the Elimination of Racial Discrimination, the Human Rights Committee and the Rights of the Child (HRI/MC/1995/2, paras. 44-47).

27. At their fifth meeting, in September 1994, the chairpersons urged the treaty bodies to take all appropriate measures in response to situations of massive violations of human rights, including the possibility of bringing those violations to the attention of the United Nations High Commissioner for Human Rights as well as the Secretary-General and the competent organs and bodies of the United Nations, including the Security Council (A/49/537). It was recommended that the Security Council, in turn, give increased attention to violations of human rights and that it take into consideration, in deciding on a course of action, the early warning measures adopted by the treaty bodies and information provided by them on human rights violations. Pursuant to a further recommendation at this meeting, the chairpersons of the treaty bodies discussed with the Secretary-General, at a meeting held on 19 June 1995, their role in bringing urgent matters relating to human rights violations to his attention and, through him, to the Security Council.

28. Early warning remained an important item on the agenda at the sixth meeting of the chairpersons, held in September 1995, which, inter alia, recommended the institutionalization of meetings with the Secretary-General on an annual basis and the utilization of the expertise of members of the treaty-monitoring bodies for fact-finding missions of the Secretary-General and emphasized the importance of human rights education as a preventive strategy. The chairpersons reiterated that human rights concerns should be integrated into all aspects of the United Nations system and emphasized the need for all parts of the United Nations system to act in accordance with human rights standards and, towards that end, to provide for human rights training of their staff.